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VIII. ARGUMENTS

A. REJECTION OF CLAIMS 1-8, 10-18 and 20-30 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH AS CONTAINING SUBJECT MATTER THAT WAS NOT DESCRIBED IN THE SPECIFICATION IN SUCH A WAY AS TO ENABLE ONE SKILLED IN THE ART TO MAKE AND/OR USE THE INVENTION IS IMPROPER BECAUSE THE SPECIFICATION DESCRIBES DEVICES THAT CREATE, DISTRIBUTE AND USE LICENSES HAVING VARIOUS CARDINALITIES AS WELL AS EMBODIMENTS OF THE LICENSES.

Claim Groups I and II

In the Final Office Action mailed February 25, 2002, claims 1-8, 10-18 and 20-30 were rejected under 35 U.S.C. § 112, first paragraph as containing subject matter that was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. Applicants respectfully submit that the claims of Claim Groups I and II are supported by an enabling description in the specification as originally filed.

Specifically, the Final Office Action states:

Claims 1, 11, 21 and 24, failed to teach how the cardinality is implemented. The specification does not teach how the license determines the number of playback devices the license can be used to authorize the playback.

See page 3, comment 6. The Final Office Action further states:

The disclosure teaches that every playback devices [sic] that have the license stored are authorized to playback the digital content, whether they belong to a set of playback devices or not.

See page 4, comment 6 (continued from page 2). *Applicants submit that this is not an accurate characterization of the specification.* Dependent claims 2-8, 10, 12-18, 20, 22, 23 and 25-30 were rejected as being dependent on rejected independent claims.

The playback devices that store a particular license (e.g., a 32-bit number/identifier) define the set of playback devices authorized to playback associated content. Playback devices can belong to multiple groups by storing multiple licenses. Applicants submit that the specification does teach at least one implementation technique for managing the cardinality of a license. For example, the specification states:

License management device 510 enforces the cardinality restrictions of the licenses created. In one embodiment, license management device 510 causes licenses to be stored by playback devices by issuing one or more commands to the playback devices to which the licenses are targeted. ... Alternately, license management device 510 can communicate the creation of a license to an appropriate content provider that, in turn, includes the license in digital content.

See page 12, lines 8-15.

Thus, in one embodiment, a license management device enforces the cardinality of a particular license. Because the distribution of licenses is controlled by a “central” device, the number of playback devices that store a particular license can be limited to the cardinality of the license. This can be accomplished, for example, by having a counter associated with each license. Note that the license has an *associated* cardinality. See Summary of the Invention. Thus, the license (e.g., 32-bit number) itself is not the cardinality, but a cardinality is associated with the license. The cardinality is used determine the number of licenses that are made available to be stored in playback device.

Thus, for example, when a license is caused to be stored in a playback device, the counter is incremented/decremented until the maximum number of licenses are distributed. Applicants submit that one of ordinary skill in the art would be able to implement this or another architecture for enforcing cardinality restrictions related to a license without undue experimentation.

Claims 2-8, 10, 12-18, 20, 22, 23 and 25-30 depend from one of the independent claims discussed above. Based at least on the arguments set forth above, that the independent claims are clearly enabled, Applicants submit that dependent claims 2-8, 10, 12-18, 20, 22, 23 and 25-30 are similarly enabled.

For at least the foregoing reasons Applicants submit that the subject matter of claims 1-8, 10-18 and 20-30 is supported by an enabling description in the originally filed specification. Applicants therefore request that the rejection of claims 1-8, 10-18 and 20-30 under 35 U.S.C. § 112, first paragraph be withdrawn.

B. REJECTION OF CLAIMS 1-8, 10-18 and 20-30 UNDER 35 U.S.C. § 112, FIRST PARAGRAPH AS CONTAINING SUBJECT MATTER THAT WAS NOT DESCRIBED IN THE SPECIFICATION IN SUCH A WAY AS TO CONVEY TO ONE SKILLED IN THE ART THAT THE INVENTORS, AT THE TIME THE APPLICATION WAS FILED, HAD POSSESSION OF THE CLAIMED INVENTION BECAUSE MULTIPLE FIGURES AND THE ASSOCIATED DESCRIPTION CLEARLY DESCRIBE VARIOUS COMPONENTS INTERACTING VIA NETWORK CONNECTIONS

Claim Groups I and II

In the Final Office Action mailed February 25, 2002, claims 1-8, 10-18 and 20-30 were rejected under 35 U.S.C. § 112, first paragraph as containing subject matter that was not described in the specification in such a way as to convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully submit that the claims of Claim Groups I and II are supported by an enabling description in the specification as originally filed.

The Final Office Action states:

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Claims 1, 3, 11, 13, 21, 23 and 24, cite "transmitting, via a network connection the first license to a first set of playback devices". ... However the specification does not disclose the license being transmitted via the network. The management device causing the license to be stored in the playback devices and the management devices issues a command to the playback devices is not the same as and does not provide clear support for transmitting via a network connection to licenses to the playback devices. As a result, the claim contain [sic] subject matter which were [sic] not described in the specification in such a way as to reasonably convey to one skilled in the art that applicant had possession of the claimed invention.

See Final Office Action mailed February 25, 2002 at pages 5-6, comment 11 (emphasis in original).

Included for the Examiner's convenience is a reproduction of Figure 5, as originally filed.

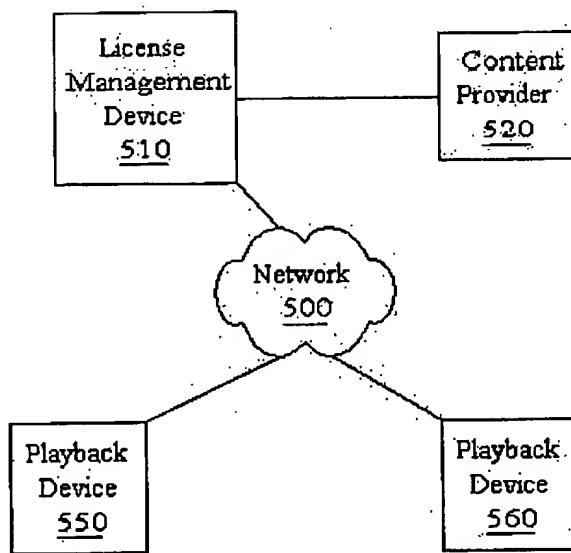


Figure 5 as originally filed.

Applicants submit that one of ordinary skill in the art, in connection with viewing Figure 5 showing a license management device coupled to a playback device via a network, and reading about such concepts as the license management device causing the license to be stored in a playback device and the license management device distributing

licenses, would conclude that these tasks can be accomplished via a network transmission. Network communications are well-known to those of ordinary skill in the art. The transmission of a license over a network is thus clearly communicated in the application as originally filed.

Because of the nature of the claim rejections under 35 U.S.C. § 112, first paragraph in response to any amendment made, Applicants are left to suspect that the Examiner is merely attempting to prejudice the Applicants by delaying the prosecution.

For at least the foregoing reasons Applicants submit that the subject matter of claims 1-8, 10-18 and 20-30 is supported by an enabling description in the originally filed specification. Applicants therefore request that the rejection of claims 1-8, 10-18 and 20-30 under 35 U.S.C. § 112, first paragraph be withdrawn.

C. REJECTION OF CLAIMS 1-8, 10-18 and 20-30 UNDER 35 U.S.C. § 102(e) AS BEING ANTICIPATED BY U.S. PATENT NO. 5,969,283 ISSUED TO LOONEY, ET AL. (*LOONEY*) IS IMPROPER BECAUSE *LOONEY* FAILS TO DISCLOSE CREATION AND STORING OF A LICENSE WITH AN ASSOCIATED CARDINALITY

Claim Group I

In the Final Office Action mailed February 25, 2002, claims 1-8, 10-18 and 20-30 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Looney*. For at least the reasons set forth below, Applicants submit that claims 1-8, 10-18 and 20-30 are not anticipated by *Looney*.

As a preliminary matter, the Final Office Action mailed February 25, 2002, with respect to the rejection of claims 3, 13, 23 and 25-27 under 35 U.S.C. § 103(a) states that

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"Looney does not specifically disclose at least one playback device belonging to a second set." See page 9, comment 26. Applicants agree with this assertion. Therefore, Applicants submit that claims 3, 13, 23 and 25-27 should have been excluded from the rejection of claims as being anticipated by *Looney*.

Claim 1 recites the following:

creating a first license having a first cardinality, wherein the cardinality indicates the number of playback devices that can be authorized for playback of associated digital audio content, the license created by a license management device;

storing the first license in a first set of playback devices in response to a command from the license management device, wherein the first set of playback devices is less than or equal to the first cardinality;

storing the first license in first digital audio content; and

authorizing playback of the first digital audio content with the first set of playback devices.

Thus, Applicants claim creating and storing a license that is used to authorize playback of digital audio content. Claims 11, 21 and 24 similarly recite creation and storing of licenses in a set of playback devices.

Looney discloses a music organizer. See Abstract. The playback devices of *Looney* have a pre-loaded serial number. The serial number is loaded at the time of manufacture. See col. 6, lines 13-14. Even if the serial number is used to authorize playback of music, the serial number is not stored by a playback device in response to a license management device. Furthermore, *the serial number as disclosed by Looney does not have an associated cardinality* that is determined by the license management device.

The Final Office Action asserts that:

Looney implies that one playback device is authorized to playback the content. Therefore teaches [sic] that the license indicates the number of playback device [sic] that is [sic] authorized to playback the content.

See Final Office Action mailed February 25, 2002 at page 7, comment 15. As stated above, the license or identifier is not the cardinality. Therefore, the license concept of *Looney* does not imply the cardinality as claimed. Therefore, *Looney* does not anticipate the invention as claimed in claims 1, 11, 21 and 24.

Claims 2-8 depend from claim 1. Claims 12-18 and 20 depend from claim 11. Claims 22 and 23 depend from claim 21. Claims 25-30 depend from claim 24. Because dependent claims include the limitations of the claims from which they depend, Applicants submit that claims 2-8, 12-18, 22, 23 and 25-30 are not anticipated by *Looney* for at least the reasons set forth above.

For at least the foregoing reasons Applicants submit that claims 1-8, 10-18 and 20-30 are not anticipated by *Looney*. Applicants therefore request that the rejection of claims 1-8, 10-18 and 20-30 under 35 U.S.C. § 102(e) be withdrawn.

D. REJECTION OF CLAIMS 1-8, 10-18 and 20-30 UNDER 35 U.S.C. § 103(a) AS BEING UNPATENTABLE OVER *LOONEY* IN VIEW OF U.S. PATENT NO. 5,745,879 ISSUED TO WYMAN (*WYMAN*) IS IMPROPER BECAUSE COMBINATION OF *LOONEY* AND *WYMAN* FAILS TO DISCLOSE OR SUGGEST AUTHORIZATION OF MULTIPLE DEVICES TO PLAY DIGITAL CONTENT BASED ON LICENSES WITH AN ASSOCIATED CARDINALITY

Claim Group II

In the Final Office Action mailed February 25, 2002, claims 3, 13, 23 and 25-27 were rejected under 35 U.S.C. § 103(a) as being anticipated by *Looney* in view of *Wyman*.